MINUTES OF THE CHARTER REVIEW COMMISSION City Council Chambers Thursday, May 9, 2013

CALL TO ORDER.

A meeting of the Charter Review Commission was called to order by the Honorable Patricio Serna, Chair, at approximately 5:00 p.m., on Tuesday, April 23, 2013, in the Community Room at the Santa Fe Public Library, 145 Washington Avenue, Santa Fe, New Mexico.

1. ROLL CALL

Roll call indicated the presence of a quorum as follows:

The Honorable Patricio Serna, Chair Nancy R. Long, Vice-Chair Steven G. Farber Brian Patrick Gutierrez John B. Hiatt Carol Romero-Wirth Daniel Werwath

MEMBERS EXCUSED

Houston Johansen Roman Abeyta

OTHERS ATTENDING

Jamison Barkley, Assistant City Attorney Irene Romero, City Attorney's Office Melessia Helberg, Stenographer

There was a quorum of the membership in attendance.

2. APPROVAL OF AGENDA

MOTION: Commissioner Hiatt moved, seconded by Commissioner Werwath, to approve the agenda as presented.

VOTE: The motion was approved unanimously on a voice vote.

3. APPROVAL OF APRIL 23, 2013 MINUTES

Two ministerial changes were made and replacement pages provided.

MOTION: Commissioner Hiatt moved, seconded by Commissioner Long, to approve the minutes of the meeting of April 23, 2013, as amended.

VOTE: The motion was approved unanimously on a voice vote.

4. PUBLIC COMMENT

Former Councilor Heldmeyer said, "We just had a comment that is going to refer to something we're going to talk about later, which is setting up your further agenda. You've had the stalwart few here for the issues that you've covered, but there are individuals and groups that would like to speak to some of the issues at the time that you vote on them. So we hope that when you set up your further agendas that they are very clear about what issues you will be voting on in any given meeting. And then people who wish to comment at that time can comment at that time."

Chair Serna asked the reason Jody Larsen isn't here today.

Former Councilor Heldmeyer said Ms. Larsen had a family emergency, so she may not be around for a while.

5. CONTINUED DISCUSSION OF TOPICS FOR REVIEW TO INCLUDE PUBLIC COMMENT

An updated matrix of all of the issues raised before the Charter Commission prepared by Daniel Werwath and distributed to the Commission, is incorporated herewith to these minutes as Exhibit "1."

A Memorandum dated May 9, 2013, to the Santa Fe Charter Review Commission, from the League of Women Voters of Santa Fe County, regarding *Reminder of Proposed Charter Amendments*, is incorporated herewith to these minutes as Exhibit "2."

A letter from Joseph M. Maestas, received May 9, 2013 via email, to Chairman Serna and the members of the Charter Review Commission, is incorporated herewith to these minutes as Exhibit "3."

A Memorandum dated May 9, 2013, to the Charter Review Commission, from Jamison Barkley, Assistant City Attorney, regarding the rights of referendum, initiative and recall under City Charter, is incorporated herewith to these minutes as Exhibit "4."

POLICY ISSUES:

A) LIMIT CONTRIBUTIONS TO CANDIDATES THAT DO NOT ACCEPT PUBLIC FINANCING.

Commissioner Long said we have discussed two times that we do have contribution limits which are set by City Ordinance. The request, and I think it primarily was from Common Cause was to have a requirement that there be limits, but not have a numerical limit, which would be set by Ordinance.

Jim Harrington said that was a proposal by the League of Woman Voters rather than Common Cause, but Common Cause supports it. The purpose it would serve would to make sure the Council could never repeal contribution limits which they're always trying to do in the Legislature, but we haven't tried to do it here yet, but it could happen.

Former Councilor Heldmeyer said she just handed out the League's specific recommendation on campaign contributions [Exhibit "2"]. As discussed previously, the League thinks it should be in the Charter because that means the City should have a law covering it, and if it's just an Ordinance it could be repealed at any time. She noted that in the recommended wording, the League is not differentiating between those who get public financing and those who do not get public financing, because in point of fact, there are limits on contributions to those who get public financing as well. And we're not saying what those limits should be. We're just saying there should be limits, and they probably will be different for people with public financing and people with private financing, but the limits should be in the Charter. And we appreciate Common Cause supporting this."

Commissioner Long thanked the League for providing the specific language, as requested, which will be very helpful as we take each item up for a vote. She wonders about the proposed language, new Section 4.07, which provides, "The Governing Body shall adopt and ordinance or ordinances." She said since we already have an Ordinance in effect, would be more accurate to say that the "Governing Body shall always have an Ordinance in force."

Former Councilor Heldmeyer said that is a question for the City's lawyer.

Commissioner Hiatt said he was going to wait until the end of the meeting, but he really wants to press the Commission to move items for decision as quickly as possible. He said we have 3 meetings left to complete our work. He suggested, as we go through the agenda tonight, and as we consider the next agenda that we put as many items on for discussion and decision as we can. He asked Commissioner Long if she is ready to move this to a vote, or do we want more discussion. He said we can have discussion if it is on the next meeting agenda for discussion and possible decision. He said everybody will then know it is time to "get up and talk substantively and move to a decision."

Commissioner Long said, "I agree that it make sense to start taking these off and considering them when we all have some memory of all the discussion and an idea of what the issues are. And I think it's fair to those that keep turning out to propose their positions on these issues, but for tonight since all these policy issues are noticed only for continued discussion and there's nothing about possible action, I would think we cannot take action, but I think it's a great idea for the next meeting. And perhaps, always include possible action so we can actually vote on these."

Chair Serna said this would be consistent with what Councilor Heldmeyer just requested.

MOTION: Commissioner Hiatt moved to table Item 5(A) to the next meeting, and ask that it be on the agenda for discussion and possible decision.

DISCUSSION PRIOR TO SECOND: Ms. Helberg pointed out that this is not on the agenda for action.

Commissioner Farber said if something is tabled it can't be discussed, so you can move to postpone it, which goes to at least you can discuss what you want to do. He said Item #6 is broad enough to be able to discuss our process and what we could be doing to move forward. He would suggest that you raise these issues for a vote under Item #6.

Commissioner Hiatt said he will raise these items under Item #6.

Commissioner Romero-Wirth suggested the following wording for this item: "The Governing Body shall limit the amount of contributions that can be accepted by all candidates." It would take out "adopt an ordinance or ordinances that." She said the point is they already do, so this is one of these again, we want to make sure that they always do.

Commissioner Long said the language works, and we can consider that at the meeting where we vote on this item, unless you have further suggestions.

Ms. Barkley said, "Just throw it out for the Commission's consideration. Do you want to specify that it applies both to candidates that accept public financing and those that are privately financed, or do you want to leave it as candidates."

Commissioner Long said, "We could say 'by all candidates,' and that might be clear.

Chair Serna added this item for discussion and action/vote at the next meeting.

B) SALARIES TO BE SET BY AN INDEPENDENT COMMISSION.

Chair Serna noted the Commissioners received a letter from Joseph Maestas [Exhibit "3"], the person who proposed this, and he won't be present here today. Chair Serna asked if there is another person proposing this, other than Mr. Maestas.

Chair Serna suggested we should set this item for a vote at the next meeting.

Commissioner Romero-Wirth asked if is included in the matrix [Exhibit "1"]

Commissioner Hiatt said yes, at the bottom.

Commissioner Farber said at the last meeting a gentleman spoke about firms that do surveys with regard to salaries, but other than that, he doesn't recall any discussion about this item throughout the course of our meetings.

Chair Serna agreed.

Commissioner Farber said he doesn't know that it has the support of anybody in the community, and the gentleman just happened to be at the meeting when we discussed it.

Commissioner Long said in reading the letter from the former Mayor of Espanola, Joseph Maestas, that may actually have recommended it as a Charter amendment at one of our first meetings. He is recommending a review of the Albuquerque's Citizens Independent Salary Commissions authority. She said, "I think any survey as to salaries would be more appropriate for the independent commission, rather than us, or even the Council, because they would be looking at salaries, so I don't think that needs to be a part of our consideration. If it is going to move forward it would need specific language."

Commissioner Werwath asked if she is thinking in terms of the broad enabling legislation we've discussed to the effect that, "The City shall adopt an ordinance that creates a process for setting salaries by an independent commission."

Commissioner Long said yes. She said, "We haven't had a lot of discussion or analysis of this issue, but it seems to have some merit so that Councilors aren't setting their own salaries. It takes them a step back as well as the Mayor, and perhaps does something which is more fair for everybody. I like the idea, but I have to admit I don't know a lot about it."

Commissioner Hiatt said, "As I read the summary statement in our spreadsheet, it appears that the Council sets this by ordinance, based on what they the County Commissioners being paid. Is that correct. [Someone nodded assent, but there was no audible response.] And so it could be different than that. It could be more. Do we agree that this is a possibility. If an independent commission were created and it said the May should be paid \$100,000 or something, that could at least be considered. It's not driven by the Legislature or the County Commission. They just do that now by ordinance, that's my understanding in reading that."

Commissioner Long said that's what Ms. Barkley told us.

Commissioner Hiatt asked Ms. Barkley if this correct.

Ms. Barkley said, "Yes, that is correct. The ordinance is set so that the salaries track those of the County Commissioners in Class B counties."

Commissioner Hiatt asked Ms. Barkley if there is no reason that an independent commission, given that authority, could come up with a different salary.

Ms. Barkley said, "Not at all."

Commissioner Romero-Wirth said in looking at Albuquerque's City Charter, Article 4, Section 6, provides, "Compensation of the Council. Councilors shall receive annual salaries as determined by a citizen's independent salary commission."

Commissioner Hiatt asked Commissioner Romero-Wirth to send that language via email to all of the Commissioners.

Commissioner Romero-Wirth said the Commissioners have it, noting it is one of the charters that was sent on March 1, 2013, noting there are 8 City Charters available on line.

Commissioner Farber said he believes the Albuquerque Councilors make about half that of the Santa Fe City Councilors.

Commissioner Werwath said he just googled Albuquerque City Council salaries and they are paid \$17,492 annually.

Chair Serna said the Santa Fe City Councilors are paid \$26,000 annually.

Commissioner Long asked the salary of the Albuquerque Mayor. Staff said they will research this item and get back with the Commission.

Former Councilor Heldmeyer said Albuquerque Council Districts 2, 4, 6 and 8, earn \$17,492 annual, and Council Districts 1, 3, 5 and 7, earn \$10,379 annual. The Council President earns \$19,510. She said she presumes there is some catch up in the election cycles.

Chair Serna added this item for discussion and action/vote at the next meeting.

C) FULL AND COMPLETE DISCLOSURE OF USES FOR TAX BONDS PRIOR TO FI FCTION.

Commissioner Hiatt said the language is in the spreadsheet.

Former Councilor Heldmeyer said this is the language proposed by the League of Women Voters, noting this is copied from the current Charter. She said, "It's certainly not something that we are wedded to, it's just for consistency's sake. There was a fairly robust discussion of this when it was first introduced.

Again, the idea that it is something the City should do, most of the times does do, but it's good to have it in the Charter to remind people when they forget to do it."

Commissioner Hiatt said his trouble with this proposal is that it doesn't sound realistic. He said he's been through several bond issues at the County and trying to list everything seems to be, first of all tedious, because there are so many things in the bond. I've also seen jurisdictions that try to move the money around afterwards. He asked, "Is it really realistic to be able to do that. The people that we haven't heard from in this discussion are bond counsel that probably would oppose it, because they're not doing what they like to do, and they understand that."

Former Councilor Heldmeyer said this is a long-standing position of the League since before the first Commission. The League didn't do a separate set of studies for this Charter Commission, because there wasn't time. She said, "It is a policy statement in the sense that it's not saying you have to list every little thing down to the penny. It's not saying you can't move things around if you give people fair warning that's what you're going to do. As in the example given previously, If you say to people, we're going to a bus bond and all the advertising on it says it's going to be a bus bond and in the wording of the ballot issue, it says, yeah, we're going to the buses with it, but we're going to do other stuff. All it's saying it needs to be clear to the public when they vote on it."

Commissioner Romero-Wirth said, "[The word] Schedule to me means a big list where there's not very much room, and I wonder if it could just say something like, 'The Governing Body shall adopt an ordinance or ordinances which shall be clear about the proposed expenditures for any tax increase or bond measure.' Something to make sure they're telling us the purpose of these things, but they're not itemizing."

Commissioner Hiatt asked where they got this language.

Former Councilor Heldmeyer said it is from the League's standing position which is about 10 years old.

Commissioner Hiatt asked if the League got it from another jurisdiction.

Former Councilor Heldmeyer said they got it from the usual League process, which is to have a whole bunch of meetings and to reach consensus, first within the study group, and then the membership. She said it is a very labor intensive and editing process. It doesn't mean every word in it is golden, "but as a Representative of the League, it's what I have to present to you. I'm presenting the League's position, and this position, if they think it is too specific, can make it more general. If they think it's too general, they can make it more specific. That's in your purview as the Charter Commission. The idea is something that the League strongly supports."

Commissioner Romero-Wirth suggested the following language, "The Governing Body shall adopt an ordinance or ordinances that ensure that the City shall be clear and comprehensive about the purpose of proposed expenditures for any tax increase of bond measure that needs to be ratified by the voters." She said Justice Serna has also recommended, "shall disseminate a clear and comprehensive plan of proposed expenditures."

Chair Serna said he likes this language better than his.

Commissioner Romero-Wirth reiterated she doesn't want it to be an itemized list that you can't move off of. She said, for example, the Legislature might fund something on the itemized list and there's no room to move those funds for something else.

Former Councilor Heldmeyer said, "As an individual that is fine with me. The League presents the wording, and you can do with it what you want."

Commissioner Farber said as we're starting to move to refine various language, I think what we ought to do for the next meeting or the meeting after that, if there is a proposal and a proponent of the proposal, is that the very specific language to be voted on should be presented. I think that ought to be the obligation of a proponent. However much we appreciate the input of Common Cause, League of Women Voters and other organizations, it seems to me that it has to be a member of the Commission that says, 'I move whatever.' I would like to suggest that it would be helpful for us that whoever is taking the lead on something has the specific presented that's going to be voted on, rather than trying to hash it out at a meeting. And there can always be amendments, but in terms of our process, it seems it would help it to be more streamlined and efficient."

Commissioner Long said she thinks what is happened here. The Commission has asked proponents, some of whom are on the Commission and some in the audience, to get us language and that is exactly what they have done as others have. And I don't think there's anything that prevents us from having to adopt that wholesale. We can make revisions to it and then vote on it. I don't think we have to have a process whereby someone on the Commission has to take a proposal under their wing, and be the one that does all the drafting and we can't hear from the public about their proposals. Because I think that's what we've been asking for, and I think that's what happened here."

Commissioner Farber said, "Perhaps I'm not being clear, when it comes to the point we're going to vote on something, I'm just suggesting it would good to have something in black and white in front of us, so then we're not quibbling about words, but rather have a concrete idea that is presented ahead of time, rather than just a general idea. It also seems to me that someone has to move something forward, and probably it needs to come from a member of the Commission, to adopt something that the League or Common Cause or the Neighborhood Network or whomever to support it. "

Commissioner Romero-Wirth she disagrees that one of us has to adopt it as our own, or present it. She is worried about saying that the language has to be provided ahead of time in order for us to vote on it, because "I think we're going to run out of time." She said, "If the people who are here and among ourselves, we can agree on language, and maybe the ones that we're playing on now, we'll provide to be

voted on, because we didn't say we were going to vote on anything this time. But in the future I think we ought to say that we might, at any point, vote on any of these, because we're running out of time, as Commissioner Hiatt suggested earlier. These, we could throw out there as, all right, this is what we think and then maybe there'll be some other tweaks at the next meeting, once people have an opportunity to talk to other folks. But we're not going to have time to do all that."

[Commissioner Farber's remarks here are inaudible because his microphone was not turned on.] He said something about how difficult it is to develop language, it can be confusing and we don't have as clear a statement as possible. He was trying to think of a way for us to have clear statements.

Commissioner Romero-Wirth agreed with Commissioner Farber that language is really important, noting she has tweaks to most of what has been presented to the Commission, and doesn't believe they are ready to forward as amendments to the Charter. She said, "I think there is extraneous language, and sometimes it is not clear, and sometimes it's not broad enough. I want to tweak a lot, so I don't know if it's going to be possible to do that. I think some of that is going to have to happen on the fly."

Former Councilor Heldmeyer said, "Can I offer compromise from the League's position. Jody [Larsen] is the one who is long expert in the League, and should be here to tell us what is League-like, and what is unLeague-like. And there is no worse pejorative that you can use in the League than to be called unLeague like, so I certainly don't want to be un-League like. However, what I can do, is take the contents of this discussion and other discussions that have been held on others of the League's recommendations, and take them to the League Board and see if they are willing to comment on the kinds of comments that have been here, and they may come up and say that language is fine, or no, we stand by what we said. I'm just the messenger."

Commissioner Romero-Wirth said, "I guess I have a problem with that, because we don't have time to do that anymore. What you brought to us as a concept of these things you think should happen, and we have our own authority here, and then there is more accountability still. Because what we're going to suggest is, again just a suggestion, and then the City Council is going to be able to tweak and play and move this stuff around before it goes to voter. I think there are lots of checks along the way and the League will have many opportunities to comment, and the ability comment when it goes to the City Council. I think there will be lots of input for you. I totally respect the League and all the hard work that you do, but we don't have time to write something and then you comment and bring it back."

Councilor Heldmeyer said she isn't asking the Commission to do that or give up any of its authority. She is saying she is taking notes on the discussions and she will take those to the League Board and when these come up for a vote, the League may or may not want to comment further.

Commissioner Romero-Wirth said, "If the League has tweaks it wants to make down the line, if we have time to consider them and put them, in, great, and we can try that."

Chair Serna added this item for discussion and action/vote at the next meeting.

D) BROADEN REFERENDUM AND INITIATIVE RIGHTS OF VOTERS.

Items 5(D) and 5(E) were combined for purposes of presentation, discussion and public comment.

Chair Serna noted there is a Memorandum on the desks from Jamison Barkley [Exhibit "4"].

Former Councilor Heldmeyer said this is a League suggestion, not recommendation. She said the League's position is that the League has no position on recall, which haven't been used since the last Charter Commission. She said it was suggested this Commission might want to look why this is the case, whether they weren't needed in that time period or if there is another reason. She noted Ms. Barkley's Memorandum in this regard. She said the League has no position on the number of signatures, except to say that initiatives and referendum should be available to the public. She said, "It is your job as a Commission to decide if these have been sufficiently available."

Ms. Barkley said there is a correction to her Memorandum, in the first paragraph, "Jim Harrington brought to my attention that... the sentence is the thirty-three and a third percent requirement was institute in 2008, instead of a 20% requirement. And to get a little bit more clear and specific, the requirement is now is thirty-three and a third percent of the actual voters in the prior elections. And the 20% was 20% of all registered voters."

Commissioner Long asked to hear from Mr. Harrington about the reason the change was made and whether there is a recommendation to decrease that number as Albuquerque is at 20% and that is for referendum and initiation, Las Cruces is at 15%, and for recall in Las Cruces it is 10%.

Commissioner Romero-Wirth asked the language we want for this Commission on this issue.

Chair Serna said he thinks the recommendation was that we keep this language as is.

Mr. Harrington said, "Well our recommendation was actually 20% of the actual voters in the last Mayoral Election. For initiative and referendum, thirty-three and a third percent for recall. And then the Council raised it all to a uniform thirty-three and a third percent. The history of it, and some of this I have on hearsay, but we got an earful on the last Commission, was that the first Commission chaired by Karen Walker was split down the middle whether to allow this kind of thing at all. There was a lot of opposition from immigrant rights groups and gay rights groups, who have been abused by these uses. He said Governor Anaya, in particular, who was on the Commission, was opposed to having anything. And the compromise was to put it in there in form, but to make it impossible. And they consciously did that as a practical matter, because 20% of the registered voters is actually 60% of the voters who normally vote, 1/3 of the registered voters. So you effectively had to have more signatures to get on the ballot than you needed votes to win. Our intent was to lower that to something that would be quite difficult, but still possible. And then the Council made that even a little bit tougher, by taking the 20% to thirty-three and a third percent, which is still a considerable decrease. I guess I have to go with our recommendation, which is 20%."

Commissioner Farber said, "I served on the first Charter Commission. And the intention was not to make it impossible, but certainly to make it difficult. We did not have a community that was driven by initiative, referendum and recall, because of the abuses that happened in referendum and recall in California." [The balance of Commissioner Farber's remarks here are inaudible, because he did not have his microphone turned on, and because Mr. Harrington was speaking at the same time as the Commissioner was speaking.].

Commissioner Farber said he has not heard from the community at large that there are a large number of people who want it to be reduced from the thirty-three and one third percent set at the last election on the Charter. He said it seems to him that if this is a big issue about which the community is really concerned that people will be able to gather the necessary signatures. He said there is a policy argument to be made that we don't want municipal government to be driven by initiative and referendum unless it's very important. With regard to recall, it should be a very difficult thing to do, unless someone violates the law, they can get the signatures. He said there is always the next election. He said there was a split on the Commission and some people were sensitive to the issue of the abuse in California and some weren't.

Mr. Harrington said in the election on the 7 proposed Charter amendments were approved, but referendum, initial and recall got the least votes for approval, noting there was some rumbling in opposition in making these easier to use, although they never got involved actively..

Commissioner Romero-Wirth said we haven't had public input that this is something this should be changed, and asked the genesis for this change.

Former Councilor Heldmeyer said it came from the League.

Commissioner Romero-Wirth said just a general statement that perhaps it should be adjusted.

Former Councilor Heldmeyer said, "No even that. A general statement that this Commission should look into the fact that these tools of democracy haven't been used, and possibly looking into why, and is that something that needs to be correct. No judgment on that whatsoever."

Commissioner Romero-Wirth asked if there is a recommendation about how "one would look into whether these tools of democracy are appropriately cast."

Former Councilor Heldmeyer said, "Given if there were time, possible polling the community, but forget polling the community. This Commission itself has gotten so little publicity, almost everything you are doing is under the radar."

Commissioner Romero-Wirth said that won't be the case once it gets to the City Council.

Former Councilor Heldmeyer said, "If there's someone out that there is upset about this, I would have thought that they might have approached you about it, but maybe not. I don't know."

Commissioner Romero-Wirth said, "One other thing too, is that I think money and politics, as we all know, has changed quite a bit since this was first looked at, so I think we need to be cognizant of that if we were to make it easier. The fact that there's so much money out there to throw at this kind of stuff, it could easily get abused, and if that was the fear to begin with, that's something to consider."

Mr. Harrington said if the City Clerk is at the next meeting, she does know something about this. She said people have made inquiries and were discouraged, he understood a real long time ago when we were looking at it – being discouraged at the 60% requirement. He doesn't know if people have made inquiries since then about initiative and referendum petitions.

Commissioner Long asked if the City has ever had a successful referendum or initiative, and asked if other cities in New Mexico have had successful referendum or initiative.

[Jim Harrington's response here is inaudible because he was speaking from the audience away from the microphone.]

Yolanda Vigil, City Clerk said, "We have not had any petitions filed for initiative, referendum or recall. We did have an inquiry last year on the recall, but then the issue was settled, so they did not come forward with a petition."

Former Councilor Heldmeyer said there was Commission-Manager form of government that was on the ballot, and Ms. Vigil said that was not on referendum or initiative and was before the Charter was adopted.

Former Councilor Heldmeyer said, "Before the Charter was in place, there was a question on a special election ballot which would require the City Manager to have adequate education and experience background and it failed."

Commissioner Hiatt said, "To answer Commissioner Romero-Wirth, even without language, I'm not sensing a support for this, and I'm ready to put it on, from my point of view personally, to get it off the agenda, and I don't mind expressing that now. I just think we need to narrow this list down to the real nubbins and this one doesn't tickle my fancy."

Chair Serna said, "Another point I would like to mention is the issue Commissioner Romero-Wirth brought up with the super PACS. And I just read an article today in *The New York Times* about someone getting so many millions for their super pack, that they could come in an force a referendum or a recall even in Santa Fe. So, I would be leering on lowering the number. He said in Wisconsin, it takes \$6 million to run for the Supreme Court, and in Michigan, \$8 million and it's all outside money, and that's why in those states and others where millions and millions are spent on Supreme Court races, the public faith, trust and confidence in the courts is eroded to nothing."

Commissioner Farber asked if we should we used the word "broaden" or the "issue of" the number of signatures, something like that.

Commissioner Romero-Wirth said the proposal was not to reduce the number, but to consider whether these numbers are appropriately cast, just to stick with the metaphor, are they appropriately devised, set up, created so people could actually use them if they wanted to. What we are hearing here is that maybe we don't necessarily want people to use them."

[Commissioner Farber's remarks here are inaudible because his microphone was not turned on.] He said something about combining Items 5(D) and (E).

Chair Serna said, "Yes we can combine those."

Commissioner Werwath said, "Could I make a request that the Agenda Committee let me know as soon as you have your agenda formulated, since we are now moving to a voting phase, so that I can work to get a press release out to *The Santa Fe New Mexican* and *The Journal North*, and hopefully get some of the public input we so deeply crave."

Commissioner Hiatt said, "Speaking on behalf of the Agenda Committee, of course."

Commissioner Werwath said, "What I have been doing is sending a draft to Irene, so Irene, when you get it me, I guess you can, so we can avoid the Open Meetings Act issues and problems and get it to them."

Commissioner Hiatt said, "Or the Geno rule, as we call it."

Commission Werwath said, "You can send me an individual document, we just can't chat about it."

Commissioner Farber said, "Well, he says no, I think we can, but our process has been is that we've come up with a draft and it is subject to the approval of the Chair. I wouldn't want to send something out before the Chair approves the agenda. I thought, since Irene is in communications in the Chair, and she would know when that happens, to get it to you."

Commissioner Hiatt said then this encompasses both Items 5(D) and (E).

Chair Serna added this item for discussion and action/vote at the next meeting, and asked that this be reflected in the minutes of this meeting.

E) SIGNATURES TO BE REQUIRED FOR PETITIONS/RECALLS.

Items 5(D) and 5(E) were combined for purposes of presentation, discussion and public comment.

See Item 5(C) above. Chair Serna added this item for discussion and action/vote at the next meeting, and asked that this be reflected in the minutes of this meeting

F) PROPOSAL FROM CITY OF SANTA FE IMMIGRATION COMMITTEE.

Mr. Harrington said he saw the agenda and passed the word to Marcela Diaz, Alejandra Seluja and Maria Christine Lopez that this was being considered today, and it sounded as if one of them would be here. He said he has worked on this with Somos un Pueblo Unidos, and could provide information. However, it would be better to have someone from the Immigration Committee presenting on this issue.

Commissioner Farber said we did receive an email a Memo from the Chair of the Immigration Committee through Irene. He said they just wanted a Charter provision that tracks with the language of the Ordinance.

Ms. Barkley said it was sent out via email, and the proposed language from Ms. Seluja, Chair, is now on the spreadsheet [Exhibit "1."

Commissioner Romero-Wirth said the proposed language is, "No municipal resources will be used to identify or apprehend any non-citizen resident on the sole basis of immigration status, unless otherwise required by law to do so.

Chair Serna said then the recommendation is that we keep that as is.

Commissioner Farber said, "No, it is to include that as a Charter Amendment."

Commissioner Long asked if that language is in a City Ordinance or a Resolution.

Ms. Barkley said, "There is no Code provision that provides for that. What there is the Resolution that set up the Immigration Committee. She said when there was talk of an ordinance, it was the Resolution that created the Immigration Task Force."

Commissioner Romero-Wirth said, "I don't know when is a good time to talk about this, but I think we do need to have a discussion about all of these, what do you call them, policy statements that we've been asked to consider on immigration, guns, children, marijuana, neighborhood network, water. I would love to have a conversation. I'd love to have some feedback about whether these are really appropriate things, merits aside, whether these are appropriate things to be putting in our Charter, our governing document that establishes our structure for how we operate as a City government. There is no reason why the elected officials, who can pass ordinances, can't do this stuff right now. And I don't know why we want to put this stuff, or whether it's appropriate to put this stuff in our constitution. I don't know where it starts and stops, and we could have all kinds of stuff. Why aren't the City Councilors doing this, if this is what this community wants."

Commissioner Farber said, "I don't know if you want to have this conversation at this moment, or have it be an agenda item for the next meeting. But I do think it's a legitimate and important discussion to have. I would point out that there are already [policy statements] in the Charter."

Commissioner Romero-Wirth said, "I know there are some, but there's nothing I can do about those, they're already there."

Commissioner Farber said, "Right, and I understand that there can be, respectfully, differences of opinion. But if it were to go to the voters and the voters said yes, it creates some interest." [The balance of Mr. Farber's statement is inaudible because his microphone was not turned on.]

Responding to Commissioner Romero-Wirth said, "I just raised the question, because we're starting to come back around on some of these again, and I just think we need to have this conversation, and I don't know what the best way to do it is. I just raised the issue."

Chair Serna said, "I think it should be placed on the agenda as a topic for conservation and perhaps all of us could have input on that."

Commissioner Farber said, "Just a discussion, and then we still have the right to present things, I'm assuming."

Chair Serna said yes.

Commissioner Hiatt said, "I think it makes sense, if we're going to do that at the meeting, to have the discussion early on the agenda."

Chair Serna said, "Yes. Let's have the discussion early in the agenda."

Commissioner Werwath said, "Mr. Chairman, I speak to this particular policy statement. I think Commissioner Romero-Wirth raises a really important issue around policy statements. This one in particular, actually, I would side on thinking that this might be an important thing to include. I do a lot of work in communities, a lot of low income neighborhoods where there is a high proportion of immigrants, and something I come across a lot is a general fear of participation in local government. And I think that having language in the Charter, and I would recommend... I think that language is a little narrow, but I would very much entertain something along the lines of, 'The Governing Body of this Community, should value all residents of that community and value them equally.' I think that is a big part of a barrier to participation in civic process for a lot of the people in the community, so that I just offer that as a perspective from someone working on the ground and trying to get folks to show up at City Council meetings to advocate for the Hopewell neighborhood, who are afraid that if they show up it's going to make them be scrutinized. To the extent that this is an opportunity to lower that barrier, I think it's a valuable thing."

Commissioner Hiatt asked, "Commissioner Werwath, are you suggesting amending the language. Do you want to suggest some other language. As we're all beginning to identify now, we need to narrow the consideration. And if you're going to do that, I'm not suggesting you do it now, but if you are going to do it, we need to see it fairly soon, and we need to focus on this discussion. If we decide to move forward with some policy statements, we do have to be specific on the language soon."

Commissioner Werwath said, "Absolutely."

Commissioner Long said she has had concerns as well about broad policy statements, whether they are appropriate for the Charter, how they get implemented, can we really require ordinances to be adopted. Is that more appropriate for the Council to do over time as elected officials in light of the change that is bound to occur over time. She said there are broad principles on which we can agree that won't change over the next 10 years, or they shouldn't change. She said, "I'm just a little concerned about implementation and how those broad policy statements would.... how you really give any effect to them through the Charter, and can you really require ordinances to be adopted. These are my broad concerns about it."

Chair Serna said we will have full discussion on it, commenting he won't be able to vote, unless it is to break a tie.

Responding to Commissioner Farber, "Chair Serna said apparently there is a divergence of opinion and it will be good to get it out and see what the consensus is. We will have the discussion first, because that is the Immigration Committee Policy Statement.

Commissioner Farber said his understanding is that will be a general discussion with regard to policy statements being included in the Charter, as opposed to any kind of discussion on immigration and such.

Chair Serna said this is correct.

Commissioner Romero-Wirth said we may need to do both, depending on how the members feel.

Commissioner Hiatt said it will also depend on how we shape the agenda for the next meeting.

Commissioner Farber noted Maria Christina Lopez of the Immigration Committee has arrived, and perhaps she might like to make a statement.

Maria Christina Lopez, Member, Immigration Committee, said the City Council adopted a Resolution in 1999, has served as a guide to the Police Department and other agencies of the City in relation to immigrants. She said "What we wanted to do is to have the City Charter include something to the effect that it has been an important part of our City since 1999, and it has made Santa Fe as an example for many cities in the United States, that we respect the rights of everyone, regardless of national origin or immigration status. And from there, we have worked with the Police Department on regulations and policies."

Ms. Lopez said they could do a more general statement if it isn't appropriate to have such specific wording in the Charter from the Resolution.

Commissioner Hiatt said, "Since 1999, have you, or the Immigration Committee identified the use of resources from the City that would be inconsistent with the Resolution. What I'm asking you in general, are there abuses out there that you see that somehow this would change. Otherwise, what you're asking us to consider, I think, is that we some emblazon this in bold language in the Charter, that the Resolution isn't enough by itself. You came in late, so you missed some of the discussion we had about what should be policy in the Charter, and what shouldn't. We started that discussion."

Commissioner Hiatt continued, "So my question to you now is, do you recognize or have any of those examples of use of City resources that are contrary to the recommendation or the Resolution."

Ms. Lopez said, "I would say yes. I would say specifically, even though we have worked very closely with the Police Department, it still happens. It still happens because there is a turnover [in personnel] and even through there is training, that's where I can see if first. We get complaints. What can I tell you. It's not just a simple statement. It really has made this City an example, because people who have their rights violated in the City can refer to the Resolution, can go to the Immigration Committee, can go to the policies of the policy. It's not the kind of thing that is understood by everyone. It's not something that is taken for granted like human rights for everyone. When you are an immigrant, that seems to put you out unless it's mentioned. And so, immigration status is a very important part of this. It seems to bring back a lot of... I can't find the correct words, but yes, we see it happen."

Mr. Hiatt said he is not familiar with the Immigration Committee, and asked what is the Committee response to an immigrant who goes to the Committee and said their rights have been violated, and asked if the Committee investigates those complaints.

Ms. Lopez said, "We asked them to file a complaint with the City. A representative from the Police Department sits on the Committee, and hears the complaint. They have to provide us report in general on whether or not the issue has been taken care of, or not. At this moment I'm also thing of another problem which is people whose wages aren't up to the Living Wage. Immigrants in general, and particularly undocumented immigrants are subject to more abuses than just regular workers. We also get those complaints and we refer them to the City, but there doesn't seem to be a general understanding by the residents of this City that immigrants are residents of the City and should afforded all the rights that any other citizen should have as a resident of the City. Does that make sense."

Commissioner Hiatt said, "I understand. Thank you very much."

Commissioner Romero-Wirth said, "I am hearing you saying, if we were to put this in the Charter, it would strengthen..."

Ms. Lopez said, "It would strengthen protection against other members in our community, immigrants. I guess it's like the Constitution of the United States. Why do we have to have special amendments for special groups. It's the same way. It really would... Being part of the Constitution would

really, I think, would be a teaching tool and also a way to enforce the civil rights of all in this City, all the people in the City. But you understand."

Commissioner Romero-Wirth thanked Ms. Lopez for having a conversation with this Commission, and Ms. Lopez thanked the Commission for inviting her to speak.

Chair Serna added this item for discussion and action/vote at the next meeting.

G) PROPOSAL FROM NEIGHBORHOOD NETWORK RE PRESERVATION ISSUES

Commissioner Hiatt said, "On this particular issue, I just looked at the language... well, I might as well just say it. As the former director of the Land Use Department, I had 3 years to live with this issue. And I want to compliment the Neighborhood Network for all the good work they did. Every time I spoke with them, they were, well, pretty polite, and they were interest in what I had to say, but they certainly had an agenda. And I don't know that I disagree with what they're trying to accomplish, but it harkens to Commissioner Romero-Wirth's comments for me, which is how much we should put in this Charter. How much should we recommend. All of this is a recommendation to the Council."

Commissioner Hiatt continued, "And in the 6 months now that we've been working on this, I've gone back and forth in my mind, what it is that I'm trying to accomplish individually, and what as a group I think we can do. I don't wake up in the middle of the night on this issue, but I do think about it, and I think, you know, we could end up with no recommendations. That would be a not unreasonable thing to do, but we could have none maybe that we want to put forward, or we could have as many as 20 or 25. But it seems to me that, in my mind, it doesn't matter how the Council may reflect on this, or even how the voters reflect on this, it's really got to be our collective judgment about what should be considered by the Council to move forward."

Mr. Hiatt continued, "And so I harken back to Commissioner Romero-With and I would rather think we need to be fewer and more selective in our items. And this is also one that doesn't ring my bell in terms at all, in terms of moving forward. And I don't mean to diss the Neighborhood Network in any way. They've done a lot of wonderful things. And that's just a comment. And since we're on it, I think we are all... I guess I'm just said that we haven't spoke up more about the issues as they've come along, and maybe this is our time. And we've listened to people come in and talk. I'm starting to think I want to express myself to the rest of the Commissioners. And I'm so worried that Melessia gets every word down, that I'm worried she'll get some words down that will come back to haunt me later on in some fashion. I can see on my tombstone, *Hates the Neighborhood Network*. I don't want that to be."

Chair Serna said, "You are saying that we, as a Commission, are going to take a scatter gun approach or a rifle approach."

Commissioner Romero-Wirth said, "Another think we need to consider is, to sort of echo what Commissioner Hiatt was talking about is that all of the things will eventually go to the voters. And I did ask

our legal counsel about how this stuff goes to the voters, and I don't know if that was provided to the public, and I hate to put you on the spot, and maybe you can you can tell us how it goes to the voters, just so folks know. And I think, on each one of these, the these the voters would say yes or no. It's not like a big slate of, this is what the Charter Commission recommended to the City Council, yes or no. That's not the way it happens. I think we want to be cognizant too about being too onerous on voters, too. I think it would be better for us to focus on things that clearly need to be changed to help City government function better, realizing the process this has to go through. And Jamison, maybe you can explain how that happens."

Ms. Barkley said, "Basically, just for the public, and any clarifying points I can make for the Commissioners. The way that this will happen is that each topic or each section will be voted on as a whole.. So, for example, we'll just take what we're on, the Neighborhood Network, if there were several different amendments to the Charter, this is a bad example for this, but several different amendments to the Charter that would affect the entire thinking of the Commission, they would all be voted on, either up or down, with the end result that the item on the Neighborhood Network was either accepted or denied by the voters. And moving on, the next would be the immigration issue, and the voters would either accept the changes made to the Charter on the immigration topic, or they would deny all the changes. And then we would move on, and so forth."

Commissioner Romero-Wirth said, "To be clear, for example, the section of the Charter on the Mayor, so we might make 5 changes to that section to strengthen the Mayor's role in City government, all 5 of those issues would be voted up or down because it's all in one... because it's all related..."

Ms. Barkley said, "That's a hard example, because with the Mayor, we've discussed several different things and it is perceivable the Council would choose to have the voters vote on, for example, whether the Mayor will be a full time position, separately, rather than whether they would like the Mayor to have the sole authority to hire and fire the City Manager. If we could look at a third example, how about the initiative and reference voter thresholds. I would think we would have the voters decide those both together, so it wouldn't come where there would be thirty-three and one third just for initiative, and say 20 for referendum. So I think that would be an item where the two changes would be made by one vote, and that would be up or down."

Commissioner Romero-Wirth said the Chair has indicated it is the discretion of the City Council to decide what things are group together. She asked if they could group all the policy statements together.

Ms. Barkley said, "I wouldn't think they would do that, because the topics are different, and it's a totally different concern to the voters to include an immigration issue in our Charter than it is to include a marijuana issue, for example. And I would think we would have a log-rolling problem where we would require the voters to decide several different issues with one vote."

Commissioner Romero-Wirth asked if log-rolling illegal at the City level.

Ms. Barkley said, "I would hate to give an opinion on the spot, but I would think yes."

Commissioner Hiatt said he thinks it is illegal everywhere.

Commissioner Long some of the issues would seem clear to her, and others not so clear, so it will be the Council who would decide specifically how each proposal is voted on.

Ms. Jamison said, "I would think that the Commission would forth a document. And I know that Mr. Harrington provided the report from the previous Charter Review Commission, which separates topics and themes, and the language for each topic and theme, the Charter section, strikeouts and additions, which in total affect the change the Commission recommended."

Commissioner Long said then we would recommend how the topics would be grouped, we need to do that too.

Ms. Barkley said yes.

Mr. Harrington said, "Karen mentioned, I was out of the room, that maybe there was some confusion on what was on the ballot and how they were separated, as to the issue of referendum, initiative and recall. Those were 3 separate ballot propositions to be voted on the last time."

Ms. Barkley said that was a bad example, commenting she was trying to come up with an example where it would seem natural to group them together. So if that question is outstanding and the group would like a better characterization.

Mr. Hiatt believes we can postpone that until we get closer to making recommendations. He said, "I don't want you to do that now."

Ms. Barkley said, "Basically the intent is that you don't want to have the voters voting on each little language separately, so that in the end there is inconsistency, and the Charter becomes a mess because they've accepted here, and declined similar language change below. The idea is that they are voting on one idea change to the Charter at a time, but no more than that."

Commissioner Farber said he has heard several times that we have only 3 more meetings but there's nothing that limits us to 3 meetings. He wants to get through the process as quickly as possible, but he doesn't want to do this at the expense of limiting or shortening debate.

Commissioner Werwath said we do have time limitations.

Commissioner Farber agreed, but said "we could have more than 3 meetings."

Commissioner Werwath said, "I'd have to revisit my notes, but I scheduled us right up to the end. We could maybe get away with one more meeting after the 3 that are scheduled."."

Commissioner Farber said there are a number of topics which justify discussion and a debate before voting.

Commissioner Werwath asked if these are things we haven't discussed.

Commissioner Farber said he is speaking about discussion at the time we are voting, commenting that we need debate at the time of voting.

Commissioner Werwath asked Commissioner Farber if he thinks we need more than 3 meetings to get through these items.

Commissioner Farber said he doesn't know.

Commissioner Werwath said, for the sake of the Councilors, we should try to get everything done in 3 meetings. We've done a lot of deliberation on these things and we should be able to move through them pretty swiftly. We've heard the arguments.

Commissioner Long said she completely agrees with Commissioner Werwath.

Commissioner Romero-Wirth said, "I don't think this is the last stop for these changes. If the City Council wants to add things we've taken off the table, they have that power."

Commissioner Farber said, "I think my colleague here usurped comments of the neighborhood Network by stating his view, and I think it would be appropriate to hear from representatives of the Neighborhood Network."

Cheri Johansen, Vice-President of the Neighborhood Network, said there has been a conflict between the neighborhood and the Land Use Department. She said, "I think it's important along with the environmental and cultural statements we have in Article 2 of the Charter, that we also include language that the preservation of neighborhoods is equally important to the character and the uniqueness of our City. Each of the neighborhoods in our City have their own characteristics, and those are basically the people who live in these neighborhoods. And people willing, or unwillingly move there for those kinds of characteristics – the environment and the atmosphere. We think it's important we emphasize that our neighborhoods are an essential part of everything. And that our neighborhoods should be preserved, and we should add that language to Article 2."

Commissioner Hiatt said, "For the record, I would like to note that Ms. Johansen are very close friends, and we are involved in other activities together, so on my cross examination I'll be relatively easy. In our previous discussion, you mentioned there were difficulties with the Land Use Department, whether it was when I was the Director or the current Director, it doesn't matter. My question to you would be, would you be here promoting this if you were working well with the Land Use Department and you didn't have those issues. Because my recommendation would be, that you should be talking to the City Manager about getting better results from the Land Use Director, but not coming to the Charter Commission to somehow correct that kind of communication, whatever the issue is. I don't know what it is."

Ms. Johansen said, "I think, like some of the issues we have discussed, if it is in Charter it doesn't make any difference who the Land Use Director is, or who the City Manager is. This is a statement as a position that neighborhoods are an essential part of our City and should be protected."

Commissioner Werwath said he has a hard time with the ambiguity of the term "neighborhood protection," and he is trying to think how the governing level document and this interact. He said, "Can you offer some examples of what you mean by "neighborhood protect." What are the qualities of a neighborhood. He said, "Because I'm thinking about neighborhoods, and I'm thinking there is a built environment, there's people, there's trees, there's all these different things that make up an environment. In 100 years, everyone in this room is going to be good, and a neighborhood isn't a neighborhood anymore, it's the buildings and trees."

[Ms. Johansen's remarks here are inaudible.] She said, "I think a neighborhood is the trees and the buildings, but it is also the character of the people, the kinds of things that particular group of people find important. In the Historic District, it is preserving the historic integrity of the City. In the Hopewell District, it might be finding a way to protect the citizens."

Commissioner Romero-Wirth asked, "Do you see, if you put it in the Charter, this idea of protecting neighborhoods, that somehow that would prevent them from evolving in ways that you would want them to. If you say, you have to protect the character and it has to be this way, that if they decide they want to evolve in some other way that everybody is okay with, does the Charter language then say you can't do that, because you have to protect what was there before. Back to, where are the edges of this protection."

Ms. Johansen said it is being a cooperative partner with the City, in whatever is happening in their environment.

Commissioner Romero-Wirth said perhaps we should say that.

Ms. Johansen said, "The way we have proposed to you is indicating the other language of the other two."

Commissioner Romero-Wirth said, then your ultimate goal then is to have the City to be more cooperative with the neighborhood people on the ground.

Ms. Johansen said, "Yes. Nothing personal, but to be sure that the neighborhoods are involved at the beginning of the process of a development or a change, then we can work together very well."

Commissioner Romero-Wirth said it goes back to whether that is something you can control, whether the Charter is the best way to control that.

Commissioner Werwath said the Neighborhood Notification process, or the Neighborhood Ordinance that Councilor Heldmeyer worked so hard on before she left the City Council.

Rick Martinez, President, Neighborhood Network, said it is the Neighborhood Bill of Rights.

Commissioner Romero-Wirth asked what is the Neighborhood Bill of Rights – is it the addition you're making to the Charter or that you would like to have one.

Mr. Martinez said there is a Neighborhood Bill of Rights. He said the best thing about the Bill of Rights is that is gives direction for neighborhoods when things come up and how neighborhoods go. He said, "And your question about how neighborhoods may can change, or they may not want to do that. The thing with neighborhoods now days is that they are reinventing themselves, which is always good. We need that kind of reinventing of neighborhoods, whether they ask for higher density.... You take Juanita Street, for example, where the density was set at R-21, which is 21 units per acre, that the neighborhood took up and said they didn't want that. It was too high of a density for them and it was destroying the neighborhood. So they went to the Council and the Council recognized this was destroying the neighborhood.

Mr. Martinez continued, "But the language that we are trying to put in there is something where neighborhoods can stand up and say there is something in the Charter that says the City and the Council has to recognize the neighborhoods as to whether they want to change, and that neighborhoods are important to the City and they always be, whether they are old and stuff like that. The whole idea of getting the language in there is so when people vote on this, or they look at the Charter, they can say there is a way we can protect our neighborhoods, let's keep that. Because we don't have anything like that."

Commissioner Romero-Wirth said, "Wait. Do you see the flip side though, that if there is something in the Charter that says you have to protect the neighborhood and the neighborhood wants the change, or that are ways that... "

Commissioner Werwath said, "Or perhaps the ambiguity of the language allows for it to be used both ways. It potentially could be used against the neighborhoods."

Commissioner Romero-Wirth said, "If there's something you want to do to evolve. You used a great term, reinventing themselves. But if you use the word protect, that means you can't change."

Mr. Martinez said, "No, you could change. When you use the word protection in some of these areas it is being used to enhance the neighborhood protects. We are also using the word enhanced at the same time, to work with that. So, basically, without any language, without anything that is not giving the neighborhoods to do what they need to protect themselves, or change themselves.... this is what the language is all about."

Commissioner Romero-Wirth said, "One more question, I know we have to go, so we should probably have you back. Do you have any Resolution like the immigration folks."

Commissioner Werwath said there are several.

Commissioner Romero-Wirth said she is speaking of a Resolution adopted by the Council supporting neighborhoods, not language for our consideration.

Commissioner Werwath said, "There is the ordinance creating the Early Neighborhood Notification system, the Neighborhood Bill of Rights, and whatever created the neighborhood planner position in the Land Use Department."

Chair Serna said, "What I will do, is invite you, at the next meeting, the first thing on the agenda will be a discussion as to whether the Commission is even going to recommend any policy positions from any of the different groups. So please be present, and give your position, and perhaps you can change a vote or two and retain that, because right now, it's going to be discussed – whether any policy positions will be included in the recommendations. So be present to discuss that."

H) PROPOSAL FROM UNITED WAY RE CHILDRENS ISSUES AND CONCERNS

Chair Serna said this item was skipped, because it is a policy statement and the Commission has heard from them and discussed this issue.

6. DISCUSSION/POSSIBLE ACTION AGENDA ITEMS FOR FUTURE MEETINGS, INCLUDING SETTING DEADLINE FOR SUBMISSION OF PROPOSED AMENDMENTS TO CHARTER.

Chair Serna said, since we have only 3 more meetings, perhaps we should establish a deadline at the next meeting for any further suggestions for amendments.

MOTION: Commissioner Hiatt moved, seconded by Commissioner Long, to establish the next meeting of the Charter Review Commission on May 22, 2013, as the deadline for submission of proposed. amendments for consideration.

DISCUSSION: Commissioner Farber said he thinks we need to set a suggested deadline. However, it could be that at the next meeting or two another idea that is important and worthwhile would come forward, and we shouldn't have a hard and fast rule until the meeting before the last meeting, so we can consider that or other items. He said, "I strongly suggest that all of the ideas be here so we can all be thinking about."

Responding to Ms. Barkley, Commissioner Hiatt said Item #6 was advertised on the agenda as having "possible action."

VOTE: The motion was approved on a voice vote with Commissioners Long, Hiatt and Romero-Wirth voting in favor of the motion and Commissioners Werwath, Farber and Gutierrez voting against the motion. The resulting vote was a tie and Chair Serna voted in favor of the motion to break the tie and approve the motion.

Chair Serna asked the minutes to reflect that he will be going on the radio to make it clear that any further changes to the Charter must be submitted by the next, so the public will know and have an opportunity to bring anything new to the Commission.

7. COMMUNICATION FROM CHARTER COMMISSION MEMBERS

Chair Serna said he will not attend the next meeting, and Vice-Chair Long will be presiding. He said he will work with Vice-Chair Long to convey his thoughts on any matters to the Commission for the next meeting.

8. PUBLIC COMMENT

A copy of *Santa Feans Against Cell Towers*, with attachments, submitted for the record by Dr. Felicia Trujillo, is incorporated herewith to these minutes as Exhibit "5."

A copy of an internet article from the IAFF Firefighters, dated March 8, 2011, submitted for the record by Dr. Felicia Trujillo, is incorporated herewith to the minutes as Exhibit "6."

A copy of an internet article from the Science of the Total Environment, dated 2011, submitted for the record by Dr. Felicia Trujillo, is incorporated herewith to these minutes as Exhibit "7."

A copy of an internet article from NRC Research Press, dated November 5, 2010, submitted for the record by Dr. Felicia Trujillo, is incorporated herewith to these minutes as Exhibit "8."

- **Dr. Felicia Trujillo** thanked the Commissioners and staff and all those contributing to the presentation and bettering of Santa Fe, her home town, noting she went to high school in what is now City Hall. She said her work has taken her to other states, Europe, Australia and New Zealand, and is always glad to find Santa Fe's insightful planning unmatched by any other city in the world which she has visit.
- Dr. Trujillo said she here to speak on behalf of doctors, health care professionals and scientists, about their concern there is no overview planning to limit cell tower expansion that will affect our children and Santa Fe's unique historic legacy of building and areas. She said in 2011, when a cell tower was planned for Ft. Marcy, Doctors warned that a policy of International Association of Fighters ruled not to allow cell towers on any of their facilities "due to proven negative health effects on firefighters." She provide the website for worldwide research substantiated this ruling [Exhibit "6"]. Dr. Trujillo also distributed materials which are Exhibits "5," "6," "7" and "8."
- Dr. Trujillo said the people need this same protection for their childrens schools and homes. She said it is wonderful that we saved the Fire Chief's office in Ft. Marcy Park and would like to extend that to other areas, especially schools. In March 2011, they met with Principal Mike Lee and the Gonzales PTA,

about the dangers of AT&T's proposed cell tower being sited next to Gonzales School, at 100 N. St. Francis, and next to a dry river bed and 6 gas pumps, as well as a major City gateway. She said, "Cell towers have collapsed and/or burst into flamed. This is a tragedy that didn't need to happen. Although parents, childredn and neighbors braved a snowstorm to picket the Burger King site, only 1 x 2 inch article with two sentences reported this on page 10A of *The New Mexican*. "

- Dr. Trujillo continued, "Attached, on top [of the materials distributed by Dr. Trujillo] is our half page ad featuring Gonzales School mom, Monica Rivera with actress Ali MacGraw, and owners of a leading Santa Fe business and clinic, all asking the City to not allow the tower. She said for true transparency, publication of tower applications in *The New Mexico* would tell the public about cell towers planned for their schools and neighbors. She said the research is on page 2, and she provided the complete study."
- Dr. Trujillo said one of the concerned parents is a Los Aamos physicist and formerly a career Navy engineer convince the Santa Fe School Board to adopt a resolution against building the tower next to Gonzales School, noting there was national coverage.
- Dr. Trujillo said, "We would ask you to support the school board in formulating a "No Tower Zone" near schools, or to make it a topic." She said they were able to notify the Santa Fe Community College President, Dr. Anna Guzman, and governing board, about the cancer cluster of students and faculty at a San Diego campus. She said people are warned not to be exposed to additional radiation after their treatment. This resulted in SFCC turning down AT&T's offer of a tower on campus. They were impressed by Kelley Brennan and the City Council in the positive response to providing the legal advise of the leading FCC specialists, whose suggestions for our Telecommunication Ordinance, now protect our citizens from being exposed to 300-600% higher radiation levels. She said they would like the next Ordinance to include surprise testing for towers, to monitor the humans for radiation levels.
- Dr. Trujillo said cell towers are sited disproportionately in working class neighborhoods. She said a new federal law has superceded the City's attempt to control the radiation levels under its ordinance. And a pre-existing cell tower can add antennas at will. She spoke about existing installations and the hazards of living near a cell tower.
- Dr. Trujillo said, "All we ask, as this decision will affect thousands of lives and many generations in Santa Fe, is that you include this issue in the creation of a legal protection to keep our City from being over-run by cell towers."

Commissioner Hiatt said, "As you have heard us discuss, it would helpful to have language. So before we take this up again, and we will, would you please consider submitting some language to us. The second point I have is, if you convince us how we can overcome the federal law that prohibits cites from taking health consideration into consideration, I would like to know that."

Dr. Trujillo said when the Ft. Marcy tower planned, Chief Salas walked over here and that "died within a day, so something was found by the City Attorney's Office that addressed that.

Commissioner Farber said, "I just want to tell you how much I appreciate you bringing this matter forward. This is not an 'out there, wu wu type position.' I fundamentally believe that in 20-30 years, there will be clusters of brain tumors. I refuse to carry a cell phone to the chagrin of my children, although I do borrow it from time to time I have to admit. And if anybody reads the manual when you get a new cell phone, there is a warning which says you should keep it away from your ear. This is a very real issue. When we talk about cell phone towers, it is a fundamental problem in this community that I tried to address 20 years ago. We are limited in terms of what we can do, by this federal legislation because it is under the [Inaudible because several people were talking at the same time.]"

Commissioner Farber continued, "I think there is a split in this Commission about whether we should have policy statements or not in the Charter. We certainly won't be doing ordinances, that's not our job. But if you have specific policy language for consideration, I would echo what Commissioner Hiatt says in terms of presenting them, and our City Attorney will include this, hopefully, in the Charter matrix, because it got in before the deadline. I do think there is a health concern that is not discussed, and whether it is a part of the Charter or not, I wanted to share my personal concerns about what exists, even with regard to wireless, although I know that level is so much lower from what I gather from Bill Bruno. But in any event, thank you. I appreciate it."

Dr. Trujillo thanked Commissioner Farber, noting she can provide data and specific language.

Commissioner Werwath asked Dr. Trujillo to review the Charter and suggest where in the Charter she would like the language to go, noting we need to get this information from everyone who is proposing an amendment/suggested language changes to the Charter.

9. ADJOURNMENT

There was no further business to come before the Commission.

MOTION: Commissioner Werwath moved, seconded by Commissioner Gutierrez, to adjourn the meeting.

VOTE: The motion was approved unanimously on a voice vote, and the meeting was adjourned at approximately 6:30 p.m.

	The Honorable Patricio Serna, Chair
Melessia Helberg, Stenographer	